



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2022-0073; FXES11130800000-212-FF08ENVS00]

Spring Mountain Raceway and Motor Resort, Nye County, Nevada; Receipt and Availability for Public Comment: Incidental Take Permit Application, Draft Habitat Conservation Plan, and Draft NEPA Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the receipt and availability of an application for an incidental take permit (ITP) under the Endangered Species Act (ESA) and an associated draft habitat conservation plan (HCP). Additionally, consistent with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form and environmental action statement supporting our preliminary determination that the proposed permit action qualifies for a categorical exclusion under NEPA. The Spring Mountain Raceway and Motor Resort has applied for an ITP under the ESA for their HCP for a 56-acre go-kart project in Nye County, Nevada. The ITP would authorize the take of Mojave desert tortoise (*Gopherus agassizii*) incidental to development, construction, and operation of the project. We invite the public and local, State, Tribal, and Federal agencies to comment on the permit application, proposed low-effect HCP, and NEPA categorical exclusion determination documentation. Before issuing the requested ITP, we will take into consideration any information that we receive during the public comment period.

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* The documents announced by this notice, as well

as any comments and other materials that we receive, will be available for public inspection in Docket No. FWS-R8-ES-2022-0073 at <https://www.regulations.gov>.

Submitting Comments: To send written comments, please use one of the following methods and identify to which document your comments are in reference—the draft HCP or NEPA compliance documentation.

- *Internet:* Submit comments at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2022-0073.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS-R8-ES-2022-0073; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

For more information, see **Public Comments** and **Public Availability of Comments** under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Glen W. Knowles, Field Supervisor, Southern Nevada Fish and Wildlife Office, by phone at 702-515-5244. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the receipt of a permit application from the Spring Mountain Raceway and Motor Resort (applicant), for a 2-year incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Application for the permit requires the preparation of a habitat conservation plan (HCP) with measures to avoid, minimize, and mitigate the impacts of incidental take of endangered, threatened, or candidate species to the maximum extent practicable. The

applicant prepared a draft low-effect HCP for a 56-acre go-kart project pursuant to section 10(a)(1)(B) of the ESA.

The Service's consideration of issuing an ITP also requires evaluation of its potential impacts on the natural and human environment in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). The Service has prepared a low-effect screening form and environmental action statement (categorical exclusion, or CatEx documentation), pursuant to NEPA and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1501.4, to preliminarily determine if the proposed HCP qualifies as a low-effect HCP, eligible for a categorical exclusion.

Background

Except for permitted exceptions, section 9 of the ESA (16 U.S.C. 1538 *et seq.*) prohibits the taking of fish and wildlife species listed as endangered under section 4 of the ESA; by regulation, take of certain species listed as threatened is also prohibited (16 U.S.C. 1533(d); 50 CFR 17.31). Regulations governing the permitted exception for allowable incidental take of endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal habitat conservation HCP program, go to:

<https://www.fws.gov/media/habitat-conservation-plans-under-endangered-species-act>

National Environmental Policy Act Compliance

The proposed permit issuance triggers the need for compliance with the NEPA. The draft CatEx documentation was prepared to determine if issuance of an ITP, based on the draft HCP, would only have individually or cumulatively minor or negligible effects on the species covered in the HCP, as well as on other environmental values or resources, and would therefore qualify as a low-effect HCP not subject to further environmental analysis under NEPA.

Proposed Action

Under the proposed action, the Service would issue a permit to the applicant for a period of 2 years for covered activities (described below) related to the construction of a 56-acre go-kart facility. Covered species include the federally threatened Mojave desert tortoise (*Gopherus agassizii*).

Habitat Conservation Plan Area

The geographic scope of this draft HCP area encompasses 56 acres in the town of Pahrump in Nye County, Nevada.

Covered Activities

The proposed section 10(a) permit would allow incidental take of the federally threatened Mojave desert tortoise (*Gopherus agassizii*) for covered activities in the proposed HCP area. The applicant is requesting incidental take authorization for covered activities pertaining to the construction of a go-kart facility, including desert tortoise and security fence installation, desert tortoise clearance surveys and translocation, cactus and yucca transplanting, blading, vegetation removal, grading and contouring, construction of go-kart tracks and associated features, and construction of facility buildings, lighting, and parking lots. For covered activities, the applicant has outlined best management practices and other measures in the HCP to minimize and mitigate for direct impacts to the Mojave desert tortoise. The proposed actions will result in the permanent loss of 56 acres of suitable Mojave desert tortoise habitat in Nye County, Nevada.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on the draft HCP and associated documents. If you wish to comment, you may submit comments by either of the methods in **ADDRESSES**.

Public Availability of Comments

Any comments we receive will become part of the decision record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

Issuance of a permit is a Federal proposed action subject to compliance with NEPA and section 7 of the ESA. We will evaluate the permit application, the HCP, associated documents, and any public comments we receive during the comment period to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action and for the potential issuance of an ITP. If the intra-Service consultation confirms that issuance of the permit will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1539(c) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and NEPA implementing regulations (40 CFR 1501.4).

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U.S. Fish and Wildlife Service,
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